IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 17TH SEPTEMBER 2007 / 26TH BHADRA 1929

Bail Appl..No. 5333 of 2007()

CRIME NO. 478/07 OF ATTINGAL POLICE STATION

PETITIONERS/ACCUSED 1 TO 4:

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1. SIVADASAN, S/O. KRISHNAN,
   VRINDAVAN, DARSANAVATTAM, THANNIKONAM, NAGAROOR.

2. SUDHAMONY, W/O. SIVADASAN,
   VRINDAVAN, DARSANAVATTAM, THANNIKONAM, NAGAROOR.

3. THANKAM, D/O. SIVADASAN,
   VRINDAVAN, DARSANAVATTAM, THANNIKONAM, NAGAROOR.

4. PRAKASH, S/O. DAMODARAN,
   DARSANA MANDIRAM, THANNIKONAM, NAGAROOR.

BY ADV. SRI.M.DINESH

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 17/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5333 of 2007

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Dated this the 17th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 1 to 4. They face allegations, inter alia, under Section 308 I.P.C. The crux of the allegations is that on 29.6.2006 because of the animosity which arose from an earlier incident, the petitioners had assaulted the victims, father and son. Injuries were suffered by the victims. The petitioners are named in the F.I.R. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. False and vexatious allegations have been raised against them. The police have obliged the defacto complainant by conveniently including the allegation under Section 308 I.P.C. Anticipatory bail may, in these circumstances, be granted to the petitioners, prays the learned counsel.

3. The learned Prosecutor opposes the application. He submits that a wooden stick and a kitchen knife were used by the offenders in the attack. Injuries were suffered, though such injuries are not

grievous. In any view of the matter anticipatory bail may not be granted to the petitioners, submits the Prosecutor.

4. Having considered all the relevant inputs, I am persuaded to agree that directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. Appropriate conditions can, of course, be imposed to ensure that the law and order situation in the locality is maintained.

5. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 24.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.50,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 5 p.m. on 25.9.07 and 26.9.2007. During this period, the Investigating Officer shall be at liberty to interrogate the petitioners in custody and effect recoveries, if any. Thereafter the petitioners shall appear on all Mondays and Fridays between

10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

© During the said period of two months, the petitioners shall not enter the jurisdiction of Attingal police station except for the purpose complying with condition (b) above.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 24.9.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(e) If the petitioners were arrested prior to their surrender on 24.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 24.9.2007.

(R. BASANT)
Judge

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